

### Verification/Declaration

Comes now Billie-Russell: Schofield, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that “All the facts stated in the foregoing **“AMENDED MOTION PURSUANT TO 28 U.S.C. §455(a) TO RECUSE THE HON. WILLIAM SMITH with Declarations in Support”** are absolutely true and correct to the very best of my knowledge and belief, that I have personal knowledge of almost every fact alleged, that they are material, admissible, and that I am competent to testify thereto.

Further, not knowing whether Rhode Island, where I live, is technically “within” or “without” “the United States”, since that entity has been defined in many varying ways, I request the Court makes that determination.

That said, if Rhode Island is “without” “the United States”, as that entity is defined by this Court: “I declare (or certify, verify, and state) under penalty of perjury, pursuant to 28 U.S.C. §1746 that every material fact, and inferences derived therefrom, presented in the foregoing document, is true and correct.”

If Rhode Island is “within” “the United States”, its territories, possessions, or commonwealths, as that entity is defined by this Court: “I also declare (or certify, verify, and state) under penalty of perjury that every material fact, and inferences derived therefrom, presented in the foregoing document, is true and correct.”

So HELP ME GOD.

Executed on December 24, 2020

By:   
Billie-Russell: Schofield

# **Exh. A**

**to**

**AMENDED MOTION PURSUANT TO  
28 U.S.C. §455(a) TO RECUSE  
THE HON. WILLIAM SMITH  
with Declarations in Support**

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**Declaration of Forensic Accountant**

**Robert A. McNeil**

## **Declaration and Forensic Analysis of Evidence**

**by**

**Robert A. McNeil**

**on behalf of**

**Billie R. Schofield**

### **Summary of Conclusions**

- A. The Commissioner of IRS circumvents his conceded lack of authority to perform substitute income tax returns (SFRs) by making his records appear that he performed them.
- B. For so-called "non-filers", IRS creates the false appearance of "deficiencies" only after falsifying both its internal and external records to make it appear a substitute income tax return was executed by IRS on claimed dates, when nothing happened on those dates except criminal manipulations of IRS' related AIMS and IMF databases.
- C. The creation of pretended deficiencies simultaneously creates, by fraud, the appearance of a duty to file, thereby, providing IRS colorable authority to enforce collection/criminal prosecutions;
- D. Without deficiencies created by fraud, involving IRS software and falsified documentary evidence, there would be no willful failure to file a return, and;
- E. Since Congress cannot authorize commission of criminal acts in the enforcement of laws, I conclude that the systemic fraud I have documented herein, occurring in the records of IRS, concerning "non-filers", is clear and convincing evidence that Congress did not, in fact, impose any duty upon Americans to file income tax returns.

I, Robert A. McNeil, affirm that:

- 1. I am a retired Forensic Accountant/Auditor/Business Consultant, located in Hurst, Tarrant County, Texas.
- 2. I have more than 40 years of experience examining the books and records of companies ranging in size and scope from local vendors to domestic and international Fortune 500 corporations.
- 3. During the 20-year consulting phase of my career, I was retained by law firms, CPA firms, the Department of Justice, major oil and gas companies, and individuals to assist them with contract disputes, arbitrations, lawsuits, and other matters, here in America and in several foreign countries.

4. During my analysis on behalf of Mr. Schofield, I examined the following documents related to the year 2009:

Support Document 1	Department of the Treasury – Internal Revenue Service IMF MCC TRANSCRIPT SPECIFIC xxx-xx-9231 Dec. 31, 2009 SCHO 2009
Support Document 2	Department of the Treasury – Internal Revenue Service IMFOLT 2009
Support Document 3	Department of the Treasury – Internal Revenue Service Form 13496, Form 4549 and Form 886-A 2009
Support Document 4	Department of the Treasury – Internal Revenue Service Form 4340 Certificate of Assessments, Payments, and Other Matters 2009
Support Document 5	Department of the Treasury – Internal Revenue Service Form 668-B Levy – 2006-2009 2009
Support Document 6	Department of the Treasury – Internal Revenue Service FOIA Response from Klaudia Villegas, IRS Disclosure Manager September 17, 2013
Support Document 7	Department of the Treasury – Internal Revenue Service FOIA Response from Laura A. McIntyre, IRS Disclosure Manager July 6, 2016

I am aware IRS concedes that its power under 26 U.S.C. §6020(b) to perform SFRs is limited to excise, employment and partnership matters.<sup>1</sup>

I am also aware IRS concedes 26 U.S.C. §6020(b) has no application to income taxes “because of constitutional issues”.<sup>2</sup>

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<sup>1</sup> The authority to perform substitutes for return is discussed in the Internal Revenue Manual §5.1.11.6.7, which shows that such authority is limited to matters involving “**employment, excise and partnership taxes**”, and does not include the income tax. [Link here: [http://www.irs.gov/irm/part5/irm\\_05-001-011r-cont01.html](http://www.irs.gov/irm/part5/irm_05-001-011r-cont01.html), scroll down to 5.1.11.6.7 “IRC 6020(b) Authority”.] The Privacy Impact Assessment IRS issues concerning 6020(b) precisely confirms that limitation. [Link here: [http://www.irs.gov/pub/irs-pia/auto\\_6020b-pia.pdf](http://www.irs.gov/pub/irs-pia/auto_6020b-pia.pdf)]

I am further aware that, to circumvent his lack of authority, the Commissioner of IRS extensively falsifies his records to make it *appear* he executes substitute income tax returns on claimed dates, when no such thing ever happens.

Following is a brief description of the manner in which IRS feloniously manipulates its controlling software to justify prosecutions of targeted “non-filers” and thefts of their property.

The Individual Master File (IMF) software is the “authoritative data source” controlling the interactions of IRS personnel with all Americans.<sup>3</sup>

The IMF software creates, for any given American and any given tax year, an annual “module”. In the “transaction section” of an annual IMF record, IRS employees enter all relevant numerical data concerning payments, deficiencies, assessments, interest due, etc.<sup>4</sup>

However, the carefully controlled IMF software does not allow direct entry of data; but only “batch entry” “transactions” consisting of three-digit numeric combinations.

Every possible three digit “transaction code” is defined and described in either IRS’ “Document 6209”, <https://www.irs.gov/uac/document-6209-adp-and-idrs-information>, in IRS’ “Internal Revenue Manual”, or in IRS’ “AIMS Reference Guide”.

The Commissioner of IRS has over 100 years of experience enforcing the income tax and he is considered the “master of the subject”.<sup>5</sup>

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<sup>2</sup> In the Revenue Officer’s Training Manual, (Unit 1, Page 23-2) [See **Exh. D, Pg. 2**] the Commissioner concedes: “The IRM restricts the broad delegation shown in figure 23-2 (6020(b))... to employment, excise and partnership tax returns ***because of constitutional issues***”. Emphasis added.

<sup>3</sup> “**IMF System Overview** The Individual Master File (IMF) consists of a series of runs, data records and files. The IMF receives individual tax submissions in electronic format, and processes them through a pre-posting phase, posts the transactions, analyzes the transactions, and produces output in the form of Refund Data, Notice Data, Reports, and information feeds to other entities. **IMF is the authoritative data source for individual tax account data. All the other IRS information system applications that process IMF data depend on output from this source.** IMF is a critical component of IRS’s ability to process tax returns.”

See IRS Privacy Impact Statement link here: [http://www.irs.gov/pub/irs-pia/imf\\_pia.pdf](http://www.irs.gov/pub/irs-pia/imf_pia.pdf)

<sup>4</sup> See **Exh. B, Support Document 1**, and review the section below the “entity”, or top portion, of an annual module maintained concerning victims.

<sup>5</sup> “Congress has delegated to the [Commissioner], not to the courts, the task of prescribing all needful rules and regulations for the enforcement of the Internal Revenue Code.” National Muffler Dealers Assn., Inc. v. United States, 440 U.S. 472, 477 (1979) (citing Correll, 389 U.S. at 307 (citing 26 U.S.C. § 7805(a))). This delegation “helps guarantee that the rules will be

The “master” of the income tax requires that his software reflect evidence a return has been received from a person, or that a return was executed by IRS at the person’s election, as a necessary predicate to determining deficiency amounts due.<sup>6</sup> That is, the IRS IMF software will not allow entry of “deficiency” amounts tabulated by IRS staff, unless that software first reflects the receipt of a return by IRS.

After 100+ years of practice, the Commissioner initiates his enforcement prosecution of those he labels “non-filers” by having his IRS Examinations Division enter a certain sequence of transactions into the Examination Division’s Audit Information Management System (AIMS), a database closely related to the IMF database.<sup>7</sup>

IRS uses the AIMS database to change IMF records, but AIMS does not have the same validation checks written into it as does the IMF.<sup>8</sup>

As shown below, by initializing in the AIMS software two particular transactions in sequence, IRS first causes an annual IMF tax module of a “non-filer” to reflect that IRS supposedly received a return on a claimed date when IRS didn’t, and a few days later, the module will automatically show that IRS supposedly executed a substitute income tax return on another date, when IRS didn’t.<sup>9</sup>

The following table summarizes the key **Transaction Codes (TCs)** involved in initiating and concealing the record falsification scheme:

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written by ‘masters of the subject’ who will be responsible for putting the rules into effect.” 440 U.S., at 477 (quoting United States v. Moore, 95 U.S. 760, 763 (1877)).

<sup>6</sup> If deficiency amounts COULD be entered without falsifying IRS’ IMF records, we can assume they WOULD be, yet invariably IRS performs the same sequence of falsified entries prefatory to opening an AIMS account, via which Examinations can then inject alleged deficiency amounts into the IMF record.

<sup>7</sup> The AIMS data base is “used by Appeals, Examination Division and TE/GE to control returns, input assessment/adjustments to the Master File and provide management reports. And while the return is charged to Examination, the AIMS data base tracks its location, age, and status.” See IRM Part 4. Examining Process, Chapter 4, “AIMS Processing”, 4.4.1.2(05-19-2009).

<sup>8</sup> “A non-master file account established on AIMS is not subject to many of the same computer checks to which a master file account is subjected.” (AIMS Reference Guide 4.4.1-1 (05-19-2009), Definition under “Non-Master File (NMF)”). [Link to the AIMS Reference Guide: [http://www.irs.gov/irm/part4/irm\\_04-004-001.html#d0e10](http://www.irs.gov/irm/part4/irm_04-004-001.html#d0e10).]

<sup>9</sup> Congress proscribed the act of falsifying government records, to reflect events which do not occur, at 18 U.S.C. §1001.

Support Document	TC	TC Description	TC Date
	424/036	Examination Request Indicator	Aug. 25, 2011
1, 2		Return Received Date	Aug. 25, 2011
2	425/036	Reversal of a TC 424	Aug. 25, 2011
1, 2	420	Examination of tax return	Sept. 12, 2011
1, 2	300	Additional tax assessed by examination	Apr. 23, 2012

The record falsification begins when an IRS Examinations Division employee begins to “build a case” against a “non-filer”.

The employee enters into the AIMS data base a transaction numbered “**424**” with a social security number and first four digits of a person’s last name, which transaction queries the “Individual Master File” software to determine if an income tax return was filed to match what IRS calls an ‘information return’, which is either a “1099” or similar unsworn document filed by someone, or an entity, claiming to have paid the “non-filer”.

A **TC 424** is described in Document 6209 as “**Examination Request Indicator**”.

If IMF does not respond to the 424 request initiated in AIMS by indicating a matching return was filed, the employee initiates in AIMS a second transaction known to IRS as an “036 push code”.

**Push Code 036** overrides the multiple validity checks built into the **IMF software**. Push code 036 is defined by IRS variously as either “a substitute for return”, or “**using a Push Code 036 will automatically generate a TC150 and TC 420 on Master File**”, [See IRS Document 6209, Section 13-17, (11) “EP AIMS Push Codes”], or is used for a “Non-filer; will computer-generate a substitute for return TC 150 at Master File two cycles after input”. [See AIMS Reference Guide, 4.4.10-14 “Push Codes”.] That means a 424/036 sequenced transaction initiated in AIMS will make the related IMF show the phrase “**SFR 150**”, even when no substitute income tax returns exist to justify entrance of the phrase into an IMF.

From my examination of the IMF records of many victims of IRS fraud, I have learned that, as part of IRS’ concealment of the scheme, the **424/036** transactions typically do not appear in the screen print provided victims known as the “**IMF Transcript Complete**” or “**IMF Transcript Specific**”. But, the initiating sequence of fraudulent transactions 424/036 **DO** appear in a screen print known as “**TXMODA**”, the existence of which screen print very few victims know.

**TC 424/036** establishes the AIMS account with a “**Ret-Rcvd-Dt**” (Return Received Date), which, for Mr. Schofield, was allegedly **August 25, 2011**.

Immediately after, and on the same date, the **TC 424/036** was initiated in the AIMS database, a **TC 425** transaction with **Push Code 036** was also entered into the IMF via AIMS. (See **Exh. B, Support Document 2**, known to IRS as an “**IMFOLT**” screen print). I noted that the **425** transaction was entered in combination with the use of **Push Code 036**, which code overrides the security features of the IMF.

I noted that, by causing the sequence of initiating transactions to appear in no single screen print, IRS scatters the evidence of their initializing sequence across the variety of screen prints available to IRS, thus ensuring no typical victim sees how IRS “builds a case” against a “non-filer”.

I noted that recently, after numerous FOIA requests have been utilized in lawsuits to stop the criminal manipulation of IRS’ databases, IRS is now refusing to provide even the IMF screen prints to victims, and instead provides sanitized “**Account Transcripts**” with false information and excised evidence. [See **Support Document 7, pg. 1**] For example, in her July 6, 2016 FOIA response to James Morris, IRS Disclosure Manager Laura A. McIntyre states:

*"Treasury Regulation 26 CFR 601.702(d) provides that requests for records processed in accordance with routine agency procedures are specifically excluded from the processing requirements of the Freedom of Information Act and Internal Revenue Code 6103(e).*

*As a result, Disclosure offices will no longer process requests for transcripts or other similar information. The part of your request for those documents is not being processed.* [See **Support Document 7, pg. 1**]

In other words, the IRS is further concealing its institutionalized record falsification scheme by refusing to provide copies of **IMF Transcript Complete**, **IMF Transcript Specific**, **TXMODA** or **IMFOLT** to Americans who request them, by exercising their rights under the Freedom of Information Act (FOIA).

In Mr. Schofield’s **IMF Transcript Specific** [See **Support Document 1, pgs. 1 & 2**] and **IMFOLT** [See **Support Document 2, pg. 1**], I observed that, after the **TC 424/036** was entered into AIMS on **August 25, 2011**, two events occurred:

1. a **TC 420** appeared in the IMF eight (8) days later on September 1, 2011. A **420** is described in Document 6209 as “**Examination Indicator**”, but, in reality, it is not a transaction at all, just an auto-generated indicator from AIMS to IMF, showing that a valid account has been established on AIMS after the 424/036 sequence which can receive deficiency amounts claimed by IRS to be owed by a “non-filer”, and that it was an AIMS-initiated transaction which began the sequence; and
2. the phrase **SFR 150** appeared in the IMF nineteen (19) days later on September 12, 2011, indicating a “**Substitute For Return**” (**SFR**) had supposedly been performed, but, nothing whatsoever happened on that date.

Every transaction initiated in the IMF software is automatically accompanied by what IRS calls a **Document Locator Number (DLN)** to ensure control and easy location of all documents related to any given transaction.

The 14-digit DLN assigned to the concealed 424/036 transaction, by which the phrase **SFR 150** was made to appear in the IMF, is **29210-888-00000-1**. [See **Support Document 1, Pg. 1**]



That is, in the falsified Account Transcript, IRS claims a “**Substitute For Return**” (SFR) was created on “09122011”, but the DLN associated with that transaction proves that nothing occurred on that date. The **Document Locator Number (DLN) assigned is 29210-888-00000-1**.

IRS responses to Freedom of Information Act requests for DLN's with high numbers of 8's and 0's, such as DLN "29210-888-00000-1", appearing in the Account Transcript [See **Support Document 6, Pg. 2**], are “computer generated” numbers and no document exists related to such DLN.

For example: In her September 17, 2013 FOIA response to Robert A. McNeil, IRS Disclosure Manager Klaudia Villegas states *"For Item i, you asked for a copy of the documents identified by several Document Locator Numbers (DLN), for the tax year 2002 through 2009. A document is not created for every DLN shown on a transcript. In situations where taxpayers fail to file required income tax returns a document locator number is assigned to create a module on the Master File. The DLN you requested was generated by our Automated Substitute for Return program. This DLN is computer generated and there is no paper document associated with it. Therefore, there are no documents responsive to your request."* [See **Support Document 6, Pg. 2**]

Hence, no substitute income tax return was created on either August 25, 2011 (the pretended return received date), or on September 12, 2011, (the pretended date the “SFR 150” was supposedly performed), contrary to repeated fraudulent IRS claims. [See for example **Support Document 6, Pg. 2, Second full ¶** ]

On **Support Document 1, Pg. 2**, I observed that, on **April 23, 2012**, a transaction numbered “**300**” was entered on IMF.

A **TC 300** is titled in Document 6209 as “**Additional Tax or Deficiency Assessment by Examination Division or Collection Division.**” It is further described in “Remarks” as “**Assesses additional tax as a result of an Examination or Collection Adjustment to a tax module which contains a TC 150 transaction.**” [See 2011 Document 6209, Section 8-14, pg. 36 of 504]

I am aware, after viewing many IMF records falsified by IRS, that the Service invariably enters claimed “deficiencies” into the IMF records of so-called “non-filers” by using a **TC 300 transaction**, which requires a return to have been previously received. Hence, the use of a TC 300 to enter “deficiency” amounts proves that such transaction is not considered by IRS as a return of any sort.

The 420 account was then closed on **April 23, 2012** with a transaction numbered **421**, and the falsified record was complete, ready to be forwarded to Collections or Criminal Investigations, as desired by IRS. [See **Support Document 1, Pg. 3**]

During my further examination of Mr. Schofield’s records, I reviewed Forms 13496, 4549 and 886-A for 2009. These forms constitute a set of paper documents government attorneys label as a

“Substitute for Return package” (a.k.a. “SFR package”) which the attorneys falsely infer to be a substitute *income tax* return. However, no IRS employees, even those who make such “packages”, ever swear to have prepared a substitute *income tax* return.

**Form 13496** is the covering “**IRC Section 6020(b) Certification**” of a typical “package” [See **Support Document 3, pg. 2**]; **Form 4549** is an “**Income Tax Examination Changes**” form where an IRS Examinations Division employee calculates the supposed “deficiency amount” owed by the targeted nontaxpayer [See **Support Document 3, pg. 3**]; and **Form 886-A** provides an “**Explanation of Items**” contained in Form 4549 [See **Support Document 3, pg. 9**]

[Please bear in mind IRS has unarguable authority to prepare “SFRs” in excise, partnership and employment matters, but not in income tax matters, unless a taxpayer elects IRS to prepare one. This explains why Government attorneys never use the full phrase “substitute income tax return”, but always use the misleading acronym “SFR”, which IRS unarguably HAS authority to prepare, but only in regard to employment, excise and partnership tax matters, or upon the election of a taxpayer.]

During my examination of those documents, I observed the following:

**Form 13496 “IRC Section 6020(b) Certification [Support Document 3, pg. 2 thru 4]**

- The form was prepared for **Billie Schofield, SSN/EIN XXX-XX-9231** for “**Tax Year 200912**”
- The box labeled “**Total pages certified as valid section 6020(b) return**” was **blank**
- The form states: “*The officer of the IRS identified below, authorized by Delegation Order 182, certifies the attached pages constitute a valid return un section 6020(b).*”
- The form was allegedly prepared and signed by Maureen Green, Operations Manager (Examination) in the Ogden, Utah Service Center
- Her Employee ID is 100009936
- She allegedly prepared the form on October 11, 2011

**Based on my examination, I determined this document to be deficient because no pages were certified as valid section 6020(b) return.**

**Form 4549 “Income Tax Examination Changes” [Support Document 3, pg. 3]**

- **Return Form No.** is shown as “**1040**”
- On page 4, the alleged “**Amount due**” for 2009 was calculated to be **\$46,956.88**
- At the bottom of page 4, in the block titled “**Examiner’s Signature:**”, there was no signature. Instead, only the typed words “**Tax Examiner - MS 4388**” appeared
- The “**Employee ID**” block contained the numbers “**100009936**”, matching Ms. Green’s ID on Form 13496
- The form was allegedly prepared in the Ogden, Utah Service Center
- The form was allegedly prepared on October 11, 2011

**Based on my examination, I determined this document to be deficient because it was not signed by an authorized IRS officer.**

**Form 886-A “Explanation of Items” [Support Document 3, pg. 9]**

- The form was prepared for **Billie Schofield**, Tax Identification Number **XXX-XX-9231** for “**Year/Period ended 2009**”
- The first sentence of the first paragraph states “*Since you failed to file your tax return(s) for the tax year(s) shown in this report, we have filed for you as authorized by Internal Revenue Code Section 6020(b).*”
- The first sentence of the second paragraph states “*We used Information Return Documents filed by payers as reported under your Social Security Number to determine your income.*”

**Based on my examination, I determined this document to be fraudulent because the underlying IMF records [Support Documents 1 and 2] provide contradictory evidence that no substitute income tax return (SFR) is EVER prepared by IRS on any date.**

Continuing my review of Mr. Schofield’s 2009 records, I determined that, when the “deficiency amount”, penalties and interest supposedly due were entered/memorialized in the IMF record via “transaction codes” (TC) “**300**”, “**170**” and “**160**” respectively, another IRS employee created a so-called “self-authenticating certification” known as a **Form 4340 “Certificate of Assessments, Payments and Other Specified Matters”**. [See Support Document 4]

As would be expected in a white collar operation directed and approved by attorneys, the person who created the “Certificate” did not identify the person (“Maureen Green”) who computed the alleged “deficiency” amount as part of the “SFR package”. In addition, the date of Green’s work, October 11, 2011, does not appear anywhere on the “Certificate”.

In fact, however, the “Certificate” contains THREE contradictory, incorrect dates, all of which fact-finders will presume to be that on which an SFR was performed by IRS. Looking at the Certificate, the type DoJ presents to courts, Ms. Green’s identity cannot be determined, nor can she be summonsed to testify as to her authority to perform SFRs in income tax matters.

[In criminal prosecutions, the DoJ doesn’t create certifications. Prosecutors, instead, first simply assume, along with juries, that Congress imposed a duty upon all Americans to file and pay income tax. Then, prosecutors use live witnesses reviewing bank records to prove that a taxpayer received the minimum amount the Government claims triggered an income tax liability. The live witness will also testify that no return filed by the targeted victim appeared in IRS records. But, IRS prosecutors ALWAYS conceal and refuse to provide the exculpatory digital and documentary evidence we have uncovered, which, if presented to juries, would defeat the presumption Congress imposed any duty upon “non-filers” to file returns.]

I confirmed this fact, through diligent study of DoJ’s Criminal Tax Manual, where I learned that, in the prosecution of alleged tax crimes, its attorneys are instructed to conceal the exculpatory IMF evidence, as follows:

"The introduction of the actual Individual Master File (IMF) transcript of account through a witness can open the witness to cross-examination by the defense about every code and data item contained in the transcript. **In order to avoid this problem, it may be wiser** to offer IRS computer records at trial in the form of Certificates of Assessments and Payments (IRS Forms 4340) or Certificate of Lack of Record (IRS Forms 3050), which are certified documents that summarize specific information regarding a taxpayer's filings and payment history." (Emph. Added) [**DoJ Criminal Tax Manual, Chapter 40.03(9)(c) Admissibility of IRS Computer Records**, pg. 35]

Link: <https://www.justice.gov/tax/page/file/477071/download>

Unless a victim can PROVE the Certificate is falsified, the "presumption of regularity" controls. The attorneys involved will simply say "The presumption of regularity supports the official acts of public officers and, in the absence of clear evidence to the contrary, courts presume that they properly discharged their official duties." See *U.S. V. Dixon*, 672 F.Supp. 502, 508. Dist. Court, MD Alabama 1987. Now, victims CAN defeat that presumption.

IRS deliberately "uses" the "fruit" from its falsified records to justify forfeitures, seizures, liens, levies, etc., in violation of 18 U.S.C. §1001, which proscribes both the falsification of federal records, and any "knowing use" of falsified records.

I observed this criminal activity in Mr. Schofield's records when I examined IRS' "**Form 668-B Levy**". [See **Support Document 5**] On that form, IRS claimed he has a 2009 tax liability of \$61,852.22, as of "01/31/2017". The form originated from IRS Territory Office "**N. Atlantic – New Jersey 1**" and appeared to have been signed by Revenue Officer Patrick Dillon on February 8, 2017. There was also a concurring signature from David S. Smith, Group Manager, who also appeared to have signed it on February 8, 2017.

The form states "*The amounts shown above are now due, owing and unpaid to the United States for the above taxpayer for internal revenue taxes. Notice and demand have been made for payment. Chapter 64 of the Internal Revenue Code authorizes collection of taxes by levy on all property or rights to property of a taxpayer, except property that is exempt under section 6334.*


*Therefore, under the provisions of Code section 6331, so much of the property or rights to property, either real or personal, as may be necessary to pay the unpaid balance of assessment shown, with additions provided by law, including fees, costs, and expenses of this levy, are levied on to pay the taxes and additions.*"

## CONCLUSION

**Based on my review of the documents, I have concluded the following:**

- A. The Commissioner of IRS circumvents his conceded lack of authority to perform Substitute income tax returns by making his records appear that he performed them.
- B. For so-called "non-filers", IRS creates the false appearance of "deficiencies" only after falsifying both its internal and external records to make it appear a substitute income tax return was executed by IRS on claimed dates, when nothing happened on those dates except criminal manipulations of IRS' related AIMS and IMF databases.
- C. The creation of pretended deficiencies simultaneously creates, by fraud, the appearance of a duty to file, thereby, providing IRS colorable authority to enforce collection/criminal prosecutions;
- D. Without deficiencies created by fraud, involving IRS software and falsified documentary evidence, there would be no willful failure to file a return, and;
- E. Since Congress cannot authorize commission of criminal acts in the enforcement of laws, I have determined that the systemic fraud I have documented herein, occurring in the records of IRS, concerning "non-filers", is clear and convincing evidence that Congress did not, in fact, impose any duty upon Americans to file income tax returns.

UNDER PENALTY OF PERJURY, I DECLARE THAT THE ABOVE AND FOREGOING REPRESENTATIONS ARE TRUE AND CORRECT TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

  
Robert A. McNeil

May 28, 2019  
Date

# **Exh. B**

**to**

**AMENDED MOTION PURSUANT TO  
28 U.S.C. §455(a) TO RECUSE  
THE HON. WILLIAM SMITH  
with Declarations in Support**

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**10 Step Program Used by IRS/DoJ  
to Enforce the Income Tax on Nontaxpayers**

**The Ten Step Program**  
**Used by IRS/DoJ to Enforce the**  
**Income Tax on Nontaxpayers**

**Authors:**

**Michael B. Ellis**

**Robert A. McNeil**

**Revised:**

**November 27, 2020**

Described herein is the program IRS uses to enforce the income tax on nontaxpayers IRS derisively labels “non-filers”. In simplified summary, IRS never prepares “substitute income tax returns”, or “summary records of assessment” concerning targeted nontaxpayers/“non-filers” on any date shown in IRS’ invariably falsified digital or paper records.

IRS’ Automated Substitute For Return program, (ASFR), run by IRS’ Collections Division, used the Sun Microsystems Platform (SMSP) to automatically falsify the Individual Master File (IMF) records of targeted nontaxpayers IRS labels “non-filers”. IRS’ Examinations Division, however, uses the Audit Information Management System (AIMS) in a more labor-intensive approach. But both variations result in similarly falsified digital (IMF) annual tax “modules” concerning victims, upon which IRS bases subsequent creation of falsified paper documentation for courts. Both methods are detailed below, and documentary evidence (beyond that attached) is available on request.

When IRS uses the AIMS software to justify actions concerning nontaxpayers, these steps are involved:

- Step 1: Improper Presumption Made**
- Step 2: IRS Improperly Imports the Phrase “SFR 150” into an IMF Module, using an override code**
- Step 3: IRS Conceals that improper entry**
- Step 4: IRS “Assigns” the phantom Return to Examinations via a TC 420**
- Step 5: IRS Creates Documents to Justify “Changing” the “0.00” Amount Due**
- Step 6: Exams Creates an “SFR Package”, Claiming 6020(b) as Authority**
- Step 7: “Package” Deficiency Numbers are entered into IMF as TC 300 or 290**
- Step 8: Creation of “Self-authenticating”, False Certifications for Use by DoJ**
- Step 9: High Level IRS Attorneys Knowingly Approve Entire program**
- Step 10: DoJ Conceals the Scheme, Uses Its Fruit, and Profits from It**

When IRS uses the Sun Microsystems Platform to falsify IMF records,<sup>1</sup> Steps 2-7 are fully automated, as detailed in IRS’ Internal Revenue Manual, sections 5.18.1.1, et seq., (link here [www.irs.gov/irm/part5/irm\\_05-018-001r](http://www.irs.gov/irm/part5/irm_05-018-001r) ), and discussed below.

Our core discovery is shocking but simple. IRS’ all-controlling software, known as the Individual Master File, (IMF), appears to have been written to prevent IRS from entering claimed “deficiency” amounts unless entries are previously made into an IMF annual module concerning a targeted “non-filer”, which produce the appearance that 1.) IRS supposedly

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<sup>1</sup> **IRM Section 5.18.1.3.1 (04-06-2016) ASFR System Overview** “ASFR is a stand-alone system residing on a Sun Microsystems platform at the Enterprise Computing Center (ECC).”



received a return from a targeted “non-filer” (when IRS didn’t), and that 2.) IRS supposedly prepared, on claimed dates, a substitute for return 1040A for the “non-filer” (when IRS didn’t).

IRS paper records are later fabricated, based on the underlying falsified digital records, to reflect those “facts”, and to reflect as well (in forfeiture cases) IRS’ pretended preparation of “summary records of assessment” on claimed dates, (when IRS didn’t). The falsified paper documents are used by the DoJ, in forfeiture and criminal prosecutions, to conceal the invariable falsification of IRS’ falsified digital (IMF) records, which controls the interaction of the Service with targeted Americans. DoJ is fully aware of the program, and uses the falsified records while concealing the exculpatory evidence of the program’s existence, as shown below.

We provide ten documents to support our claim IRS invariably falsifies IMF modules concerning targeted “non-filers” to bypass the software protections written into the IMF software.

This document is “spirally” organized, to scaffold a reader’s knowledge. We review the scheme three times, adding detail to each review.

#### WHAT DIFFERENCE DOES IT MAKE?

The inference derived from the existence of the systematic falsification of IRS records is staggering. Since 1.) Congress cannot authorize the commission of crimes by law enforcement,<sup>2</sup> and since 2.) IRS invariably falsifies the annual “module” of the Individual Master File records concerning targeted “non-filers”/nontaxpayers to make it appear IRS supposedly received a return from a “non-filer” when it didn’t, that IRS prepared a substitute income tax return when it didn’t, etc., Congress did not impose any duty upon “non-filers” to file income tax returns.

Said differently, since enforcing the income tax on those who don’t voluntarily provide sworn 1040’s invariably requires IRS to commit computer and document fraud, the program’s existence infers Congress never ACTUALLY imposed any duty upon “non-filers” to file returns.<sup>3</sup> The program exists to conceal Congress’ failure to impose any actual duty on

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<sup>2</sup> In *Olmstead v. United States*, Justice Brandeis wrote: “When these unlawful acts were committed, they were crimes only of the officers individually. The Government was innocent, in legal contemplation, for no federal official is authorized to commit a crime on its behalf,” and: “The Eighteenth Amendment has not, in terms, empowered Congress to authorize anyone to violate the criminal laws of a State. And Congress has never purported to do so. The terms of appointment of federal prohibition agents do not purport to confer upon them authority to violate any criminal law. Their superior officer, the Secretary of the Treasury, has not instructed them to commit crime on behalf of the United States. It may be assumed that the Attorney General of the United States did not give any such instruction.”

<sup>3</sup> 26 U.S.C. §1: “There is hereby imposed on the taxable income of every....” The phrase “taxable income” has never been defined by IRS. Without close analysis, it *looks like* a duty was imposed. But, was it? We don’t answer that question. We merely present facts.

Americans, and IRS' lack of authority to enforce the income tax on those who don't voluntarily file returns.

That said, however, this is a FACT-BASED discussion of the income tax enforcement scheme, not based on legal arguments raised by typical income tax challengers. That means we are not attempting to prove whether Congress imposed the income tax on Americans. We are only proving the FACTS IRS commits layered fraud to enforce the income tax on those who supposedly "fail to file" sworn returns. And, our extensive experience in litigation over the past seven years PROVES government-employed attorneys have no answer to our factual claims, since based exclusively on IRS-provided manuals, FOIA disclosures, litigation discovery and mailings to victims. [We will discuss separately our quiet litigation to date across the country, which offers perverse confirmation of the correctness of our discoveries.]

## **Part A. Overview, 4 Background Matters, Summary**

### **Overview**

Until Sept. 2017, IRS' Collections Division used a fully automated software program, running on the "Sun Microsystems Platform", (SMSP), and IRS' Examinations Division still continues using the Audit Information Management System (AIMS) software, to insert certain critical, improper entries in IRS' Individual Master File annual records (IMF) concerning targeted "non-filers".

The IMF controls all interaction by the Service with Americans, so entry of data in an annual tax module is strenuously protected. But no similar protections are written into the AIMS or SMSP, both of which can modify IMF annual records.<sup>4</sup>

Computer/document fraud occurs at several stages of the income tax enforcement process, as shown below.<sup>5</sup>

As a starting point, please take a moment now to review "**Doc. A**", a "6020(b) Certification" prepared by IRS concerning Michael Ellis and 2007. Please note carefully the date of its preparation: "04/12/2010", the importance of which will become apparent as we review the AIMS/IMF sequence used by IRS' Examinations Division.

## **Four (4) Background Matters**

### **a. The Individual Master File (IMF), AIMS and SMSP**

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<sup>4</sup> Before the ASFR computer program was begun in 1986, the Service accomplished the same result with "dummy returns", blank paper 1040s used as placeholders to make it appear a return existed which IRS could pretend to audit.

<sup>5</sup> Documentation to support each fact set forth herein is provided, or can be more fully upon request. And Mr. Robert McNeil, a forensic accountant with forty years of experience, will attest to each uncovered step in the institutionalized, invariable program in minute detail.

As noted already, IRS constructed the Individual Master File (IMF) database to control the interaction of the Service with Americans and with other entities. The related AIMS database (Audit Information Management System) was created to track IRS audits made by the Examinations Division of IRS. The SMSP (Sun Microsystems Platform) was created for use by IRS' Collections Division, and comprises a fully automated sequence that falsifies data entries in IMF annual "modules" concerning targeted nontaxpayers, and simultaneously produces falsified, incorrectly dated, unsigned documents IRS labels as "Proposed Assessments", "30 day letters" and "90 day letters", as explained below.

After falsifying IRS' digital IMF records, issuing letters to victims, etc., IRS prepares falsified "Certificates of Assessments, Payments and Other Matters" for use in Court and to prevent victims from discovering and proving the underlying digital fraud. In other words, IRS prepares falsified paper documents for court proceedings to conceal the underlying fraud whereby the IMF digital records are falsified.

Each tax year, a separate file is opened in the IMF for a taxpayer, which file IRS calls a "tax module". [See, for example, **Doc. H**, a printout of the entries made in a module concerning Ellis and 2007. There are many variations of printouts of IRS records available. This one is labeled by IRS as "IMF MCC TRANSCRIPT-SPECIFIC" and was prepared on 05-28-2010.]

An annual tax module concerning a person can be opened in the IMF using several different transaction codes, including "140", "971", etc. The module can be either opened "by hand" or automatically by the SMSP, as part of the "Automated Substitute For Return" program.

Every event that occurs between IRS and a taxpayer or a nontaxpayer/"non-filer" is memorialized in an IMF annual module by entry of three digit "transaction code" numbers. This process ensures absolute accuracy and tracking of accounting.<sup>6</sup>

For example, as defined by the IRS in "**Document 6209**", (the oddly named "decoder manual" for the IMF), a transaction code numbered "150" is the code entered into an IMF module when IRS memorializes that a person filed a return that year. [See **Doc. 6209**, Pg. 8-9.]

Although the phrase "**SFR** 150" appears in all modules concerning targeted nontaxpayers/"non-filers", [See for example **Doc. F**, attached, Pg. 1.], the exact phrase "SFR 150" is never defined by IRS, despite multiple references to it appearing in IRS documentation.<sup>7</sup>

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<sup>6</sup> Between the IRS' Processing Codes and Information Manual (a.k.a. "Document 6209"), the Internal Revenue Manual, and the AIMS Reference Guide, each possible three-digit code that can appear in an IMF is discussed and described as to its meaning and function.

<sup>7</sup> See **Doc. 6209**, Pg. 12-13, IRS instructs employees: "Use an original return blocking series for cases in which the TC 150 is an SFR/Dummy TC 150", and in the 6209 Manual, Pg. 13-13, the letters "SFR" are defined by IRS as "substitute for return". Interesting phrase "SFR/dummy". See Footnote 4.

But, IRS has repeatedly, publicly conceded, it has no authority to execute substitute **INCOME TAX** returns under 26 U.S.C. §6020, as shown next.

**b. Authority to Perform Substitute Returns does NOT include INCOME Tax Matters**

In Section 5.1.11.6.7 of IRS' Internal Revenue Manual, ("IRM", the "Bible" to IRS employees), IRS' Commissioner claims to have received delegated authority pursuant to "Treasury Delegation Order 182" to calculate and perform "substitute for returns" (SFR's) in certain, narrow instances where none have been filed, but should have been. This authority is derived from a statute passed by Congress: 26 U.S.C. §6020(b). But, although the text of TDO 182 (now TDO 5-2) has never been published by IRS, the authority to perform substitutes for return is fully revealed by IRS in IRM 5.1.11.6.7 and two other places,<sup>8</sup> unequivocally stating that said authority is limited to "**employment, excise and partnership taxes**", (unless a taxpayer "elects" for IRS to prepare a substitute income tax return for him, as shown below). [Link here: [http://www.irs.gov/irm/part5/irm\\_05-001-011r-cont01.html](http://www.irs.gov/irm/part5/irm_05-001-011r-cont01.html), scroll down to 5.1.11.6.7 "IRC 6020(b) Authority".]

Thus, it now appears IRS *unlawfully* extends the authority given in 6020(b), by publicly pretending that said authorization justifies creating substitute **INCOME** tax returns, despite IRS' published concessions it has no such authority. And in fact, as we discovered, IRS *never prepares substitute income tax* returns on any date shown in IRS records concerning targeted "non-filers". IRS uses computer and document fraud to conceal its lack of duly-delegated authority to prepare substitute income tax returns, as further explained below.

**c. Three Types of Individuals**

For purposes of this discussion concerning **income** tax, there are three types of "individuals" about whom IRS maintains IMF records:

- 1.) those who file "1040" returns voluntarily,
- 2.) those who elect/ask IRS to compute a "1040A" for them, pursuant to §6014,  
and
- 3.) those who IRS claims supposedly "fail" or "refuse" to file anything, i.e.  
nontaxpayers IRS denigrates by labeling "non-filers".

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<sup>8</sup> The limitation on the authority to perform substitute returns in only employment, partnership and excise matters is precisely confirmed in both the Revenue Officer's Training Manual, [See **Doc. D**, pgs. 1-2 attached], Unit 1, Page 23-2: "The IRM restricts the broad delegation shown in figure 23-2... to employment, excise and partnership tax returns because of constitutional issues.", and in the Privacy impact Assessment IRS issues concerning 6020(b). [Link here: [http://www.irs.gov/pub/irs-pia/auto\\_6020b-pia.pdf](http://www.irs.gov/pub/irs-pia/auto_6020b-pia.pdf)]

IRS' highly complicated, fully encoded IMF, AIMS and SMSP computer programs were created to provide a systematic method to memorialize any/every possible event involving income taxes and taxpayers.

Each year when a person voluntarily files a fully executed sworn "1040" return, the entry of a transaction code "150" is made in the IMF record of that person for that given annual module (tax year), to memorialize the taxpayer's filing.

To handle situations when a taxpayer "elects"/chooses for IRS to compute and file a return for them in any given year, as authorized at 26 U.S.C. §6014, or for situations when IRS prepares substitute returns in excise, employment or partnership matters, IRS software engineers created a transaction code "SFR 150", to document that preparation. That is, with respect to elections by taxpayers under §6014, IRS uses a certain sequence of data entries made in AIMS to produce the phrase "SFR 150" in an IMF module to memorialize *the request by a taxpayer* that IRS prepare a substitute for return for her/him. IRS then produces the substitute return requested, sending copies to the requestor.

But, how does IRS deal with nontaxpayers, i.e., so-called "non-filers"? As we shall see, IRS misapplies the computer procedure created to process §6014 elections. But first, let's take a short side trip.

#### **d. The Fifth Amendment – Does it Apply?**

The Fifth Amendment to the Constitution makes it unlawful for the Government to compel Americans *during the course of a criminal trial* to provide evidence which the Government could use against them in court.<sup>9</sup> But, before any criminal proceeding is instigated, IRS hangs over the heads of all Americans the threat of criminal prosecution if they don't voluntarily provide a tax return. Yet, how can filing an income tax return be both voluntary and mandatory simultaneously?

That irreconcilable conflict is resolved through surreptitious digital and document fraud, which, since invariable, has been approved at the highest levels of the Service and the DoJ. IRS uses computer fraud to quietly rape the due process rights of Americans, and not one in a million can articulate it.

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<sup>9</sup> A Form 1040 is sworn as to its accuracy, so it is "evidence", (and it can't be compelled). In *Hale v. Henkel*, 201 U.S. 43, (1906), still unreversed, the Supreme Court stated: "The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State....Among his rights are a refusal to incriminate himself..." Gov't. lawyers get around that by claiming the 5<sup>th</sup> Amendment right only applies DURING criminal prosecutions, hence, they claim it cannot be asserted before a prosecution begins.

To handle many routine situations when someone “fails” to “voluntarily” file a return that IRS thinks should have been filed, IRS stood up the “Automated Substitute for Return Program” (ASFR) in 1986, which was run by IRS’ Collections Division.<sup>10</sup> That program used the Sun Microsystems Platform, (which was suspended in Sept. 2017, although it may have since been restarted.) But, IRS also created the sequence of steps whereby the Examinations Division can use the Audit Information Management System (AIMS) software to falsify the all-controlling IMF software. Either method comprises an IRS record falsification scheme so carefully layered it is likely no one at IRS knows all the moving parts.

In brief summary of the core initial fraud, IRS “games” its sophisticated IMF database, using either of its related databases, AIMS or SMSP, to create the appearance IRS received a return from a “non-filer” and that IRS prepared a substitute income tax return on claimed dates, despite the well-camouflaged TRUTH that IRS never prepares substitute income tax returns on any date, let alone those shown in IMF records concerning targeted “non-filers”/nontaxpayers.

IRS misuses the software procedure created to process legitimate taxpayer “elections” under 26 U.S.C. §6014, as proven by decoding the “Document Locator Numbers” (DLN) automatically assigned by the IMF software to each “SFR 150” transaction, as detailed below.

After studying numerous Individual Master File records used to justify attacking “non-filers”, we discovered that ONLY after the initial sequence of fraudulent entries described below, will the IMF software allow later entry of claimed “deficiency” dollar amounts IRS wants to collect as supposedly owed by the “non-filer”.

More specifically, IRS Examination Division employees can open a “skeletal account” in the AIMS database by entering a certain transaction code (“TC 424”) simultaneously with a certain override/push code (“036”). When the skeletal module is assigned to an IRS Examiner, a sequence of entries is then kicked off between the AIMS and IMF databases, resulting in the targeted annual IMF tax module falsely reflecting the receipt by IRS of a 1040A return from a “non-filer” and the pretended existence of a substitute income tax return prepared by IRS, (“SFR 150”) on a claimed, but false date.

IRS’ Collections Division used/uses the Sun Microsystems Platform to streamline the record falsification process, requiring no human participation until the entry into the IMF module (via a “transaction code” 290 or 300) of the claimed deficiency amounts, calculated originally by the SMSP without human input.

Our Government is raping the priceless protected due process rights of targeted Americans using computer fraud, concealed by document fraud (and by layered attorney fraud in courts).

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<sup>10</sup> See link: [https://www.irs.gov/irm/part5/irm\\_05-018-001r](https://www.irs.gov/irm/part5/irm_05-018-001r) IRM, Part 5. Collecting Process, Chapter 18. Liability Determin. Section 1. Automated Substitute for Return (ASFR) Program.



Next is a short two-page summary of how both versions of the program work, to give a general feel for the language and the documentary exhibits. The full description begins on Pg. 13.

### **Each Step SUMMARIZED of the AIMS/IMF Program**

Now, we present a brief description of the invariable sequence IRS and DoJ use to justify attacking targeted nontaxpayers/“non-filers”, when using the AIMS software. [A separate description is provided below of the sequence used when IRS’ Collections Division uses the ASFR program run on the Sun Microsystems Platform to drive the attack.]

The sequence never changes, so is “institutionalized”, not *ad hoc*. Specifically, when IRS contends someone “fails” or “refuses” to file a 1040, in **Step 1**, IRS unlawfully presumes, pursuant to a certain illogical Treasury Regulation (detailed below), that the person supposedly filed a return anyway, showing a zero (“0.00”) amount due thereon.

In **Step 2** of the program, if the AIMS software is being used, IRS improperly employs a computer procedure created to process elections under 26 U.S.C. §6014 when people ask IRS to prepare a **1040A** for them, which procedure includes use of an overriding “Push Code 036.”

That is, after entering into the “Audit Information Management System” (AIMS) database a transaction numbered “424” simultaneously with the override “push code 036”, that sequence of two simultaneous transactions automatically produces in the targeted IMF annual module concerning a victim, the phrase “Return Received Date” with a corresponding claimed date, even though IRS claims the target is a “non-filer”, i.e., she/he filed no return.

In **Step 3**, IRS conceals the 424/036 transaction, by entering a 425 transaction.

In **Step 4**, when the module/“account” is assigned to a particular Examinations Division employee via a “420” transaction, precisely 11 days later, the phrase “SFR 150” automatically appears in the targeted IMF record, (“SFR” means substitute for return), even though no substitute income tax return was ever prepared by IRS on any date, let alone those shown in IRS’ IMF records concerning a “non-filer”.

Said differently, when the Examinations Division is involved and uses the AIMS software to initiate an attack on a “non-filer”, the related IMF module concerning a tax year related to the “non-filer” is altered to reflect that the person supposedly requested IRS to perform a **1040A** “substitute for return” (SFR) on the person’s behalf, and that one was supposedly prepared,

despite the fact no such request was made, nor was any substitute income tax return 1040A ever prepared.<sup>11</sup>

In **Steps 5-7** of the AIMS/IMF sequence, IRS creates a set of paper documents government attorneys label as a “Substitute for Return package” (a.k.a. “SFR package”) which the attorneys falsely infer to be a substitute *income tax* return. However, no IRS employees, even those who make such “packages”, ever swear to have prepared a substitute *income tax* return. [See **Docs. A** and **I** attached, which are two of the documents invariably assembled as part of an “SFR package.” **Doc. A**, a “Form 13496”, is the covering “certification” of a typical “package”; **Doc. I**, is an “Income Tax Examination Changes” Form 4549, where upon an IRS Examinations Division employee calculates the supposed “deficiency amount” owed by the targeted nontaxpayer. Please bear in mind IRS has unarguable authority to prepare “SFRs” in excise, partnership and employment matters, but not in income tax matters, unless a taxpayer elects IRS to prepare one. This explains why Government attorneys never use the full phrase “substitute income tax return”, but always use the misleading acronym “SFR”, which IRS unarguably HAS authority to prepare, but only in employment, excise and partnership tax matters, or upon the election of a taxpayer.]

After **Step 7**, when the “deficiency amount”, penalties and interest supposedly due are entered/memorialized in the IMF record for that year via “transaction codes” (TC) “**300**”, “**170**” and “**160**” respectively (as shown below), in **Step 8** another IRS employee looks at that tax module concerning the targeted victim, which module now contains the claimed deficiency amounts supposedly due. Then the employee creates a so-called “self-authenticating certification” as to what she sees. [See, for example, **Doc. J**, a Form 4340 “Certificate of Assessments, Payments and Other Specified Matters.”]

As would be expected in a white collar operation directed and approved by attorneys, the person who creates the “Certificate”, (in **Doc. J**, a Ms. “Denise Bradley”), does not identify the person (“Maureen Green”) who computed the supposed “deficiency” amount as part of the “SFR package”, nor the date of Green’s work, April 12, 2010. [See **Doc. J**, the Form 4340 Certificate which does not mention Green or the date she computed on the Income Tax Examination CHANGES Form 4549 (**Doc. I**) the amounts supposedly owed by Ellis for 2007.]

Instead, Ms. Bradley posits in the “Certificate” she created THREE contradictory, all incorrect dates, all of which fact-finders will presume<sup>12</sup> to be that on which an SFR was

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<sup>11</sup> We are seeking to acquire the “source code” software documentation written by the engineers to PROVE IRS is misusing procedures created to legitimately process requests by taxpayers to prepare 1040A returns, when prosecuting nontaxpayers. We can see that’s what they are doing, but we want to use the source code to prove the transactions being used were not created for that purpose.

<sup>12</sup> Unless a victim can PROVE the Certificate is falsified, the “presumption of regularity” controls. The attorneys involved will simply say “The presumption of regularity supports



performed by IRS. Looking at Bradley's Certificate, the type DoJ presents to courts, Ms. Green's identity cannot be determined, nor can she be summonsed to testify as to her authority to perform SFRs in income tax matters.

[In criminal prosecutions, the DoJ doesn't create certifications. Prosecutors, instead, first simply assume, along with juries, that Congress imposed a duty upon all Americans to file and pay income tax. Then, prosecutors use live witnesses reviewing bank records to prove that a taxpayer received the minimum amount the Government claims triggered an income tax liability. The live witness will also testify that no return filed by the targeted victim appeared in IRS records. But, IRS prosecutors ALWAYS conceal and refuse to provide the exculpatory digital and documentary evidence we have uncovered, which, if presented to juries, would defeat the presumption Congress imposed any duty upon "non-filers" to file returns.]

In **Step 9**, IRS deliberately "uses" its falsified records to initiate non-judicial collection activities, civil forfeitures and criminal prosecutions, in violation of 18 U.S.C. §1001, which proscribes both the falsification of federal records, and any "knowing use" of falsified records.

And finally, in **Step 10**, (in instances where IRS wants to justify forfeitures/seizures/liens/levies, etc.), IRS provides the falsified "self-authenticating certifications" to the DoJ to conceal the underlying fraud, and to shield IRS employees and experts from being cross-examined concerning the IMF, which digital record contains decodable evidence proving IRS commits concealed criminal acts to enforce the income tax.<sup>13</sup>

## **Part B. Ten (10) STEP Program Detailed**

### **Step 1: Improper Presumption Made**

The scheme begins at Treasury Regulation 26 CFR §301.6211-1<sup>14</sup> which illogically states in pertinent part: "If **no return** is made... the amount shown as the tax by the taxpayer **upon his return** shall be considered as zero". [Emph. Added. Please read that again, slowly, then verify.]

We might justly wonder, when "no return is made" how a return can be assumed to exist and be assumed to show a zero amount due. That contradictory language was written by IRS

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the official acts of public officers and, in the absence of clear evidence to the contrary, courts presume that they properly discharged their official duties." See *U.S. V. Dixon*, 672 F.Supp. 502, 508. Dist. Court, MD Alabama 1987. Now, victims CAN defeat that presumption.

<sup>13</sup> In its "Criminal Tax Manual", as shown below, the DoJ explicitly suggests to United States Attorneys they should avoid allowing the IMF transcript to appear in court, which is a transparent instruction to attorneys to conceal the exculpatory evidence found in the IMF records. So, the DoJ secures convictions in 97% of "willful failure to file" cases based on falsified underlying IRS records.

<sup>14</sup> Carefully compare 26 CFR §301.6211 with 26 U.S.C. §6211. Don't trust our claim.

attorneys, supposedly authorizing IRS employees to presume a return was filed by a “non-filer”(!), and which return shows a zero (“0.00”) amount due.<sup>15</sup>

However, regulations written by IRS are meant to explain and “implement” the related statute created by Congress, which in this case is found, of course, at 26 U.S.C. §6211. The statute written by Congress in 26 U.S.C. §6211, upon which regulation §301.6211 is based, does not mention instances where “no return is made”. So, the regulation “exceeds the scope” of the related statute, by supposedly authorizing IRS to presume, in cases where no return is filed, that one was supposedly filed showing a “zero” amount due.

The regulation, thus, is void, as applied to Americans. More specifically, the presumption is unlawful because courts long ago held that “Although the Service has authority to issue regulations for the enforcement of the revenue laws, that authority does not extend to establishment of rules creating presumptions which are out of harmony with the statutory provision involved.”<sup>16</sup>

It is, moreover, not a reasonable extension of the statute because it provides an enormous power to IRS which Congress did not, and could not, give: the power to presume an imaginary return has been filed when none exists. [How that presumption helps IRS is explained shortly.] Again, it was long ago decided that: “The Commissioner has no more power to add to the code (via implementing regulations) what he thinks Congress overlooked than he has to supply what Congress has deliberately omitted.”<sup>17</sup>

Since mere regulations cannot exceed the scope of the underlying statute Congress passed, and since Treasury Regulation §301.6211 attempts to authorize an illogical presumption that a return was supposedly filed by a non-filer showing a “zero” amount due, the regulation is void.

So, exactly what advantage did IRS secure for itself by writing the illogical regulation?

Although IRS has never publicly identified any source of authority to perform substitute **income tax** returns, IRS unquestionably DOES have statutory authority to AMEND any sworn income tax return that is filed, (if it might be wrong in any particular), since it is filed under oath as to accuracy. [See Footnote 18.] The presumption written into Regulation §301.6211 allows IRS to assume/pretend a 1040 return was filed by targeted “non-filers”/nontaxpayers, and to assume/pretend it shows a zero amount due, which, if it had been true, IRS has legitimate power to amend or “change”, (exactly what IRS pretends to do in **Step 4**, *et seq.*).

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<sup>15</sup> Attorneys are aware of an interesting presumption in law: that if a duty is imposed, the law presumes that duty was performed. Hence, the presumption that a return was filed showing a 0.00 amount owed.

<sup>16</sup> *Commissioner v. Produce Reporter Co.*, 207 F.2d 586, *Eastman Kodak Co. v. U.S.* 48 F Supp 357, *etc.*

<sup>17</sup> *Arkansas-Oklahoma Gas Co. v. Commissioner*, 201 F.2d 98.

Without the wholly illogical and unlawful presumption IRS created for itself at §301.6211, IRS couldn't take a single step against a person exercising their right to avoid providing the Government evidence which could be used against him/her in court, because when no return exists, IRS has nothing to use as a starting point.<sup>18</sup>

## **Step 2: IRS Improperly Imports the Phrase “SFR 150” into an IMF Module**

Based on the unlawful presumption in **Step 1**, IRS Collections Division then falsifies the IMF annual record (“module”) for a given year, making the IMF record for that year show IRS supposedly performed a **1040A** substitute **income** tax return on a specific date claimed, *at the request* of a so-called non-filer. More specifically, in cases where no 1040 return is filed, and IRS feels one should have been, it appears IRS unlawfully uses the software procedure created to process legitimate instances when a taxpayer “elects” (asks) IRS to calculate a return for them, pursuant to 26 U.S.C. §6014.<sup>19</sup>

The Collections Division starts the process by first opening a “skeletal record” in the “Audit Information Management System” (AIMS), containing only a person's name and TIN.<sup>20</sup> Specifically, by entering in AIMS a transaction numbered “424”, in conjunction with the entry of a “push code” numbered “036”, and with a victim's name and social security number, employees kick off the typical AIMS/IMF sequence.<sup>21</sup> [See **Doc. G**, TXMODA version of the IMF record for Ellis and 2007, to see the “424R” which occurred on “01132010”.]

Functionally, IRS claims a 424/036 simultaneous transaction entered in AIMS is a “requisition” by the AIMS software to the Master File software, whereby AIMS requests a full

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<sup>18</sup> Please see link here: <http://www.irs.gov/pub/irs-wd/1998-053.pdf>, (courtesy copy attached hereto as **Doc. L**) the 1998 internal Memo written by IRS Assistant Chief Counsel for IRS staff only (“In no event shall it be disclosed to taxpayers or their representatives”). Therein, Page -3-, Paragraph 2, she states: “[T]he penalties of perjury statement has important significance in our tax system. The statement connects the taxpayer's attestation of tax liability (by the signing of the 1040 statement) with the Service's statutory ability to summarily assess the tax.” IRS clearly has authority to verify or challenge sworn returns that are not accurate in any way. But, stated in its obverse, without a voluntary sworn statement, IRS appears to have no lawful authority to summarily assess income taxes. Hence, IRS quietly commits criminal fraud in its internal records, after assuming a return was filed.

<sup>19</sup> Again, the IMF software “source code” will prove that statement, that IRS attacks targeted nontaxpayers by improperly using software procedures created to process elections under §6014.

<sup>20</sup> Before the advent of the ASFR program, IRS performed the same fraud by creating “dummy”, blank paper returns containing only a targeted victim's name and social security number entered.

<sup>21</sup> See **Document 6209**, pg. 13-17: AIMS Push Codes “Note: using a Pushcode 036 will automatically generate a TC 150 and TC 420 on Master File.” And, in **Document 6209**, pg. 12-17: “036 Non-filer: will computer generate a substitute for return TC 150 at Master File 2 cycles after input.”

matching record from IMF, upon which IRS Examinations Division employees can work, complete with statutory collection dates, (ASED, CSED), etc. After the dual 424/036 entry is entered in AIMS, a “424” will appear in the IMF module/record juxtaposed beside a certain claimed “RET RCVD DT”, (a date claimed as a “return received date”), even though no return was received on that date, or any other, from a targeted nontaxpayer. [See **Doc. G. TXMODA**] Neither the IMF nor AIMS software is “aware” that no return exists at the time the 424/036 transaction is made.

Thus, transactions 424/036, made simultaneously in AIMS, starts a sequence whereby the targeted IMF is falsified in multiple ways.

IRS uses the AIMS database to create the impression in IMF that a 1040A return was supposedly prepared by IRS at the request of a victim. [See for example, **Doc. B**, the AMDISA “screen print” concerning Ellis and 2007, revealing that a 1040A was the supposed subject of the 424/036 transaction on “01132010”, (January 13, 2010) concerning Ellis and 2007].<sup>22</sup>

MOST importantly, ONLY AFTER that initial set of falsifications of an IMF record will the IMF software allow later entry of “deficiency” totals computed long after the ASFR program resulted in the falsified IMF.

It is valuable to bear in mind, as noted above, that a.) IRS has never stated any source of authority explicitly empowering performance of substitute income tax returns, (unless a taxpayer elects such preparation) yet, b.) IRS does have unquestioned authority to *modify* any sworn return that is filed. So, in **Step 2**, IRS is circumventing the IMF software restrictions to provide itself power to take later actions, by making the official IMF record reflect that a return WAS filed (which “0.00” amount shown they later “change” in **Steps 4 and 5**).

Restated: without injecting the phrases “**RET RCVD DT**” and “**SFR 150**” into the targeted annual module of a nontaxpayer, with corresponding claimed but false dates, and showing a “0.00” amount due, (which is just a placeholder), the software restrictions written into the IMF apparently will not allow IRS to later enter claimed deficiency amounts, computed on “Income Tax Examination CHANGES” forms, into the targeted annual module, as explained below.

Importantly, IRS’ Processing Codes and Information Manual, a.k.a., “**Document 6209**”, defines the initial **Step 2** “TC 424” transaction [See **Document 6209**, pg. 8-18] made by the Collections Division as a “return that has been referred to examinations or appeals division”. But, it is OBVIOUS that, by definition, “non-filers” file NO returns.

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<sup>22</sup> The associated DLN, when decoded, also provides explicit confirmation that IRS is misusing procedures designed to process 1040A requests. See 6209 Manual, Pg. 4-1, “Document Locator Numbers” and Pg. 2-5, defining that a number “10” reflects that a 1040A is the subject of the transaction. See also **Footnote 22**.

And we know, by multiple proofs, that no return, whatsoever, had been prepared at the time the “424” appears in the IMF. For example, see IRS FOIA response to Mr. Robert McNeil [**Doc. K**], attached to this summary, wherein he sought from IRS all documentation associated with the Document Locator Number (DLN) 29210-888-00000-0 printed beside the phrases “RET RCVD DT” and “SFR 150”. IRS responded by disclosing to Mr. McNeil that “this DLN is computer generated and there is no paper document associated with it. Therefore, there are no documents responsive to your request.” [See **Footnotes 22 and 23** describing “DLNs”.]

### **Step 3: IRS Conceals the TC 424 by “Reversing” it with a “425”**

Referring again to documentation concerning Ellis and 2007, in **Doc. H**, there was, literally, no return to be “referred” by anyone in IRS to any division on the RET RCVD DT, return received date, shown of “01132010”, as claimed in the IMF Transcript [**Doc. H**]. Those phrases, and related dates, were injected into the module upon the initial 424/036 transaction.

So, to conceal the fact that no return existed to refer to Examinations when the phrase “Return Received Date” was entered by fraud into a “non-filer’s” IMF via AIMS, IRS Collections Division initiates, on the same day as the 424/036 transaction, a follow-on transaction in AIMS, numbered “425”, which simply removes the “424” transaction from view in the “IMF Complete” and “IMF Specific” screen prints.

Thankfully, it is not removed from other screen prints/versions of IRS records, such as AMDISA and TXMODA, and still exists to prove IRS mendacity. [See **Doc. G**, TXMODA concerning Ellis and 2007 which shows the 424 transaction. Thus, we also see that IRS uses multiple variant versions of its records, so that no single screen print shows all actions of IRS simultaneously. Hence, requests must be made specifically for the full set of documentation to get a complete picture of how the program works. And, IRS is fighting such requested disclosures.]

IRS defines a 425 transaction as “A TC 424 that was reversed.” [See **Document 6209**, Pg. 8-18.] But, certain evidence gets left behind in the IMF after a TC 425, which IRS cannot erase, (a telltale “document locator number” for one example<sup>23</sup>), due to the audit trail required by the IMF software. Such pieces of evidence remaining after a 425 transaction is made to conceal a previous 424 transaction, proves that IRS improperly used, in **Step 2**, the software procedure

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<sup>23</sup> 14-digit Document Locator Numbers (DLN) are assigned to every single IMF transaction, pointing researchers to the physical location of the paper documents to which the numbered transaction refers. Each digit in the DLN has a specific purpose. For example, the fourth and fifth digits of a DLN indicate the subject of the transaction. The numbers “09” or “10” in the fourth and fifth places of the DLN regarding the “SFR 150 entry” indicate a “1040A, either unpaid or fully paid”, was supposedly the subject of the “424” transaction, even when no 1040A was requested by a victim to be computed by IRS. [See **Doc. B**, AMDISA screen print, which literally states the document IRS claims to be processing concerning Ellis and 2007 was a “1040A”. That document never existed.]



appropriate only for requests made by someone in the IRS to calculate a 1040~~A~~ return. [See **Doc. H**, for the DLN associated with the phrase SFR 150, even though no actual document exists associated with that entry. DLNs are discussed carefully below.]

Although the 424 transaction is removed from sight in the IMF module/record after the 425 transaction, the accompanying data that IRS desired to enter in the affected module is not ‘reversed’ out, but still remains in the module, i.e., the critical term “Return Received Date”, (“RET RCVD DT”), with an associated claimed date.<sup>24</sup>

[Since few people know of the existence of IRS’ “Document 6209”, (or the “AIMS Reference Guide” and the “Internal Revenue Manual”), and even fewer have time to study such things, it is statistically impossible that a person under IRS attack can discover the scheme and determine the identity of the IRS Collections employees who falsified the IMF record via a TC 424/036, then concealed it the same day via a TC 425. According to the Fifth Amendment, “procedural due process” contemplates the right to know opposing evidence and the right to cross-examine adverse witnesses. Yet, the Commissioner surreptitiously falsifies his records concerning targeted “non-filers” to conceal the identity of IRS employees engaged in acts they have no authority to perform.]

#### **Step 4: IRS “Assigns” the Phantom Return to Examinations via a TC 420**

The 424/036 and 425 transactions begun in the AIMS database, prepares the targeted module for the entry of a “420” transaction, which is input at the time a module is assigned to an Examinations Division auditor. [See for example **Doc. G**, TXMODA re Ellis and 2007. When looking at **Doc. G**, please incidentally notice that the 424 transaction is still visible in that version of the record concerning Ellis for 2007, but, not visible in the IMF Complete version of the record for 2007.]

IRS defines a TC 420 variously, as: “indicat[ing] that a return has been referred to the Examinations or Appeals Division”, and “the return has been assigned in the Examinations or Appeals Division.” [6209 Manual, Pg. 8-18.] But, no return existed to have been referred to, or to have been assigned to, any IRS employee.

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<sup>24</sup> As noted, the 6209 Manual defines a “425” as “a TC 424 that was reversed”, which is just one more deception. In truth, the 424 was not “reversed” in any way, it was simply removed from view in the IMF transcript. The *effects* desired by IRS remain behind in the IMF, so, nothing was “reversed”; the number “424” was just hidden under the 425. That is, the only thing the 425 transaction did was to conceal the 424 from view in the IMF screen print, making it, thus, more difficult to find out exactly how the phrase “SFR 150”, the “0.00”, the “Return Received Date”, etc., came to be entered into the module of an IMF. Deliberate acts to conceal previous crimes are themselves criminalized in 18 U.S.C. §4 as “misprision”. There is no legitimate reason to remove the 424 from view in the IMF.

In contradiction, elsewhere in the IRM we read that a 420 transaction code appearing in an IMF is simply the automatic response of the AIMS software telling the IMF software that a full record has been “established” in AIMS, after the 424/036 requisition for full matching data was made.<sup>25</sup>

Whichever definition of a “420” transaction is applicable in this situation, (whether that transaction is supposed to occur at the assignment by a human to an IRS auditor, or is the automatic response of AIMS to IMF reflecting establishment of a fully operational AIMS record), precisely 11 days after the 420 transaction shows up in an IMF, the phrase “SFR 150” automatically appears in the IMF record, accompanied by yet another specifically claimed date, and an amount claimed due of 0.00, (memorializing the “zero” return presumption of 301.6211). But, no “SFR” (substitute for return) occurred on any date shown.

### **Step 5: IRS Creates Documents to Later Justify “Changing” the “0.00” Amount Due**

After IRS falsifies an annual module as discussed in **Steps 2-4**, it is ready for the assigned “Examinations Division” auditor to build out a fully falsified record. Examinations looks at the Form 1099s or W-2s sent to the Government concerning a “non-filer”, (against which IRS records show no match of either a filed return, or an election under §6014 for IRS to perform an SFR), then does an initial computation of an amount supposedly owed to IRS. That computation is typically done on an “Income Tax Examination Changes” Form 4549 [See **Doc. I**, where “Maureen Green” prepared one concerning Ellis on April 12, 2010.]

Forms 4549 are supposed to be used by auditors to track “changes” they make to deficiency amounts when an original return was already filed. However, since no initial actual return exists in the case of a “non-filer”, the employee filling out the Form 4549 will only be instigating the eventual “Change” of the “0.00” placeholder amount due, injected into the module via **Steps 2-4**.

That is, in **Step 5**, IRS is preparing paper documents to justify changing the zeros entered in an IMF earlier, via the 424/036 and 420 transactions. Although IRS employees have unarguable authority to “change” any sworn return filed (if they can find evidence the sworn return was incorrect in any respect), what they are changing in the case of “non-filers” turns out to be only zeros. [After the auditor’s “deficiency” amounts claimed due are memorialized by entry into the

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<sup>25</sup> From “AIMS Reference Guide”, Sec.4.4.1-1, (scroll to “**Skeletal Accounts**) – “AIMS creates a skeletal record when IDRS CC AM424 is input, showing the requisition and limited taxpayer information. Once the request goes to Master File and is matched, Master File sends an opening record to AIMS and the account becomes fully established. Once fully established, AIMS sends a TC 420 back to Master File.”

Also, in AIMS Ref. Guide, Sec. 4.4.1-1, (scroll to “**Fully Established Aims Account**”): “Once a TC 424 posts to Master File and is matched, Master File sends an opening record back to AIMS which is when the account becomes fully established. AIMS then sends a TC 420 back to Master File.”

IMF module, IRS will, as we shall see in **Step 6**, fraudulently claim the amounts entered on the “Change” Form comprise part of a purported “substitute for return package”, or “SFR package.” The claimed deficiency amount will be later entered via either a TC 290 or TC 300 transaction.]

### **Step 6: Exams Creates an “SFR Package”, Claiming 6020(b) as Authority**

The Examinations Division auditor who filled out the paper 4549 “Change” Form (in Ellis’ case for 2007, a “Maureen Green”), is not done. She then attaches that Form to a so-called “6020(b) Certification”, [See **Doc. A**, attached], to an “Explanation of Tax” Form 886, and to other docs, bundling them together in a so-called “substitute for return package”, (“SFR Package”), which is then shipped to IRS data entry clerks, so that the claimed dollar amounts “due”, as generated by the “package” creator, (Green), can be entered in **Step 7** into the IMF. A copy of the “package” is also shipped to the victim.

Although the package-creator (“Green” in Ellis’ 2007 case) never claims she performed a “substitute *income* tax return,” she infers that she did because she states on the 6020(b) Certification in her “package” that Treasury Delegation Order 182 (now 5-2) supposedly authorizes her to perform substitutes for return. For reasons unknown, but suspected, IRS has never published the text of TDO 182, now TDO 5-2. But, all three IRS publications discussing the authority to perform substitute returns pursuant to TDO 182 uniformly agree it is strictly limited to 1.) employment, 2.) excise and 3.) partnership taxes, or when a taxpayer elects IRS to prepare one for him/her. [See Background Matter B. above.]

So, the “Package Lady” (Maureen Green in Ellis’ case for 2007) avoids calling her work a substitute *income* tax return. Everyone else involved will assume her work to be a substitute *income* tax return anyway and all government lawyers will claim it to be an “SFR” which the unlearned ‘outsiders’ (tax court judges, defense counsel, victims) assume is a substitute INCOME TAX return.

Note the difference between a “substitute for return”, which she HAS authority to prepare but only in regard to three (3) types of matters, and a “substitute *income tax* return”, which she has no authority to prepare unless a taxpayer elects it. She just writes that she has authority, pursuant to 6020(b), to perform “substitutes for return” pursuant to TD 182, which *is* technically true, but, only in three limited instances, which do not include *income* tax matters related to “non-filers.”

### **Step 7A: Package Numbers Entered into IMF as a TC 300 or 290**

In this Step, if IRS is using its AIMS software (rather than the SMSP) to falsify the IMF, the “Package Lady’s” “Income Tax Examination Changes” computations on the Form 4549 then get memorialized in the IMF module/record by entrance therein of transaction codes, which might be either a Transaction Code numbered “300” or “290.” [See for example **Doc. F** 2007 IMF Transcript Complete concerning Ellis and 2007.] Both a TC **300** and **290** are defined similarly by IRS’ 6209 Manual as “Additions to Tax” transactions, and further defined as” “Assesses



additions to tax as a result of an examination or collection adjustment to a tax module *that contains a TC 150 transaction*” already. [See **Document 6209**, pg. 8-15, Emphasis added]

From that descriptor, we know that the “SFR package” which the Examinations Division created in **Step 6**, is not, itself, treated by IRS internally as a substitute income tax return. It is not an “SFR 150” transaction which occurred on the claimed “Return Received Date”, since a “150” transaction refers to a return, and some sort of 150 transaction **MUST** be in place in an IMF module **BEFORE** the TC 300 or TC 290 “Additions to Tax” deficiency amounts claimed due can be entered. [Does that make sense to the Reader? Please reread the previous two paragraphs.]

In other words, IRS’ encoded internal records prove that the IRS treats “SFR packages” as “additions to tax” in modules which previously were made to reflect IRS’ pretended preparation of a return. SFR packages are not treated internally by IRS as substitute income tax returns, since IRS uses either a 290 or 200 transaction to memorialize the data computed in such “packages”.

No computed deficiency/penalty/interest data existed at the time the initial **Step 2** AIMS “424”/”036” transaction occurred, by which IRS caused the phrase “return received date” to be inserted into the affected IMF module. An “Additions to Tax” assessment resulting from an “audit” is, hence, not an “SFR 150”, despite the fact that the phrase SFR 150 was entered into the targeted module in **Step 4**, 11 days after the TC420.

Without the phrase “SFR 150” having been fraudulently entered in **Step 4**, the IMF software apparently would prevent IRS from entering, into the targeted tax module, claimed “deficiency” amounts calculated on ‘Income Tax Examination CHANGES Forms 4549’, since the IMF software (predictably) requires a return to have been memorialized in an annual module by either a 150 transaction or SFR 150 transaction before any so-called “additions to tax” numbers can be entered via a TC 300 or 290 transaction.

#### **Step 7B. VARIATION on a THEME: the ASFR / Sun Microsystems Platform**

In September 2017, IRS suspended operation of the “Automated Substitute For Return” program, (ASFR), which used the free-standing Sun Microsystems Platform (SMSP) located in Martinsburg, West Virginia. (It may have since been restarted.)

The ASFR/SMSP sequence was fully automated, from production of unsigned assessments, wrongly dated, unsigned “proposed assessments”, “30 day letters”, “90 day letters”, and entries in the IMF of various dates.<sup>26</sup> It provides a useful comparison to the more labor intense use by

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<sup>26</sup> We only recently discovered the SMS Platform during the ongoing forfeiture case of *United States v. Ford*, in the Eastern District of California. That is, in discovery, the DoJ produced evidence from the IRS revealing the sequence of computer fraud used by the

Examinations of the AIMS software, although both producing the same ultimate results: falsified IMF digital records.

The ASFR/SMSP program is fully discussed in the Internal Revenue Manual, beginning with IRM Section 5.18.1.1. Four sections are extremely helpful in this analysis.

**IRM Section 5.18.1.6** states:

“When ASFR processing is initiated on a module, the ASFR system will calculate the proposed tax assessment, and generate both the 30-day and 90-day letters.”

In other words, once the SMSP is engaged by IRS’ “Taxpayer Delinquency Investigation” function,<sup>27</sup> no human being is involved until a data entry clerk inputs a claimed deficiency amount into the targeted IMF, usually many months after it is automatically calculated by the SMSP.

In the IRM, IRS further helpfully explains the interaction of the SMSP with the IMF database:

**IRM Section 5.18.1.6.1. “ASFR Dummy TC 150”,** states:

“When an ASFR 30-Day Letter (‘2566’) is generated, ASFR requests a TC 971 with Action Code 141 be posted to the Individual Master File (IMF) module under consideration. The TC 971 triggers a dummy return to then post. The dummy return posts as a TC 150 for ‘\$0.00’ to the module. An ASFR dummy return can be identified by the literal ‘SFR’ to the right of the TC 150 on TXMODA. Additionally, the Document Locator Number (DLN) will (contain) a Julian date of 887. The Julian date for an SFR computed by the IRS Examinations Division is ‘888’.”

We thus learn that the information provided by the Document Locator Number, when decoded, clarifies whether IRS used the AIMS or the SMSP software to falsify the IMF module. Far more importantly, however, the IRM section cited means that the SMSP automatically creates the appearance in the IMF record that a so-called “dummy” return was created by IRS, on a claimed date, when in fact no such thing exists.

The IRM blatantly confirms the fraud:

**“IRM 5.18.1.6.4 (04-06-2016) Preparing and Processing ASFR Dummy Return**

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Collections Division against Ms. Ford. On March 27<sup>th</sup>, 2018, we presented that evidence in support of Ms. Ford’s Opposition to Summary Judgment. That evidence is available on request. The Court wholly ignored the evidence, as did the Ninth Circuit on appeal.

<sup>27</sup> See, for details of the “TDI” system, IRM 5.18.1.2 (04-06-2016) Automated Substitute for Return (ASFR) Program Overview.

1. ASFR generates a TC 971 AC 141 which triggers a dummy return to post to the module. **No paper return exists.** Do not attempt to request the DLN from files or try to associate anything with it.” [Emph. added]

IRS thus concedes, in print, that no dummy return even exists, when the ASFR/SMSP program is used to prosecute “non-filers”.

If no response is made by the targeted “non-filer” to either the automated “proposed assessment”, the “30 Day Letter” or the “90 day letter”, here’s what happens:

#### **5.18.1.6.11.53 (04-06-2016) CLOSED, No Taxpayer Response (Default)**

“Status 104 indicates that a default assessment was requested. ASFR systemically (automatically) places modules in Status 104 when the Status 090 follow-up date expires, and the module passed TIF check 4. See IRM 5.18.1.6.15, ASFR Follow-up or Action Dates. ASFR systemically requests a **TC 290** tax assessment, TC 495, and TC 599 CC 088.”

That is, the SMS Platform notices the IMF software of a need to prepare a tax assessment. IRS defines a “290” Transaction as indicating that an “additional tax (was) assessed”.<sup>28</sup> But, when the ASFR/SMSP program is used, a mere data clerk simply enters into the IMF, via a 290 transaction, the precise alleged deficiency total calculated by the SMSP at the inception of the attack. Responses to FOIA requests by IRS prove that no original assessment, nor any “additional tax assessment” is ever made by any authorized human being, when the ASFR SMSP program is used.

But regardless of whether the IMF record is falsified via AIMS or by the ASFR/SMSP program, IRS creates paper documents to prevent discovery in litigation of IRS’ falsified underlying digital records, which drives every attack on “non-filers”.

#### **Step 8: Creation of “Self-authenticating”, False Certifications for Use by DoJ**

In this step, another IRS employee is told to look at the targeted IMF annual module/record as it was amended in **Steps 2-7**, (whether using AIMS or the SMSP), complete with its fraudulent “SFR 150” shown to have been created on a date different from the claimed Return Received Date, and, now, with the newly added amounts due, **such** as the claimed deficiency due (via **TC 300 or 290**), penalty due (**TC 160**), interest due (**TC 170**), etc.

Then, after reviewing the IMF, this employee creates a paper “Form 4340 Certificate of Assessments, Payments, and Other Specified Matters” (or similar document; there are variants) wherein she falsely infers a “Substitute for Return” was performed on any one of three different

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<sup>28</sup> See IRS “Processing and Codes Manual”, a.k.a. 6209 Manual, Pg. 8-13.

conflicting dates, *none of which are true*. [See **Doc. J**, an example of such “Certificate” concerning Mr. Ellis and 2007 created by “Denise Bradley.”]

Specifically, analysis of the **Doc. J** Certification shows it is purposefully ambiguous to lead the reader to assume an SFR occurred either on 1.) “01132010”, (January 13, 2010), which is the date we know that the “424/036” AIMS/IMF transactions occurred, (See **Doc. G**, Pg. 1) or maybe on 2.) “02082010”, (February 8, 2010), which is the date the module was supposedly referred by Collections to Examinations via the 420, (See **Doc. F**, Pg. 1), or maybe on 3.) “11152010”, (November 15, 2010) which is the date IRS data entry staff entered into the IMF via the TC 300 the deficiency amount, interest and penalties the Package Lady computed, (See **Doc. F**, Pg. 2). **But, no substitute income tax return was prepared on any date, let alone any of those three.**

Most importantly, the fraudulent Certificate does NOT mention the “Package-Lady” (Maureen Green, in Ellis’ case) who created the deficiency data on the 4549 Changes Form, nor the date of her work. [Please review **Docs. A and I**, both of which were supposedly created on April 12, 2010 as part of an “SFR Package”. Please NOTE that the date April 12, 2010, never shows up in the IMF for Ellis and 2007, or in the 4340 Certificate.]

[If the SMS Platform is/was used to falsify the IMF, the related Certificate will reflect that the date of the pretended, non-existent “dummy return” is when a summary record of assessment supposedly occurred! Evidence from discovery in *Ford* is available on request.]

So, the IRS Examinations Division employee computing data that attorneys will later infer to be part of a substitute income tax return can never be identified or cross-examined in court as to her authority to create such document. Ms. Green disappears from the picture.

Critically, the “Certifier” (Ms. “Bradley” in Ellis’ case re 2007) does not claim the information she provides is actually true, just that it accurately reflects information somewhere in the bowels of the IRS.

IRS creates the Certifications pursuant to evidentiary rules, which allow for “self-authenticating” documentation in certain instances involving complicated records. For non-lawyers’ information, the Certification part of the scheme provides the DoJ the ability to provide a Court just enough information to secure the IRS/DoJ goal (seizures, tax court judgments, etc.) while preventing cross examination of IRS expert witnesses about the identity of the Package-Lady, or about her lack of authority to perform substitute **income** tax returns for “non-filers,” or about the identity of those who falsified the IMF to make it appear a substitute **income** tax return (“SFR 150”) supposedly occurred on a certain date, etc.

Any fact-finder will look at the Certification provided by DoJ, shrug and say: “The Affiant swore she saw information actually on file somewhere in IRS, and nothing in the certificate gives

defense counsel cause to question the expert witness about the underlying data. The presumption of regularity controls, and we will assume in the absence of contrary proof, that a substitute for return was performed by the Government, showing a deficiency amount owed.” [See Footnote 12, for clarity.]

The entire sordid underlying scheme, including the Package-Lady, (Ms. Green, for example), the unknown-named employee who initially inserted the phrases “Return Received Date” and “SFR 150” into the IMF, etc. is rendered invisible by the falsified paper Certificates.

### **Step 9: High Level IRS Attorneys Knowingly Approve Use of Falsified Documents**

The act of falsifying government records, as well as the act of deliberately using falsified documents, are separate violations of the criminal law proscribed at 18 U.S.C. §1001. Since the program **invariably** occurs, as described herein, in cases involving “non-filers”, and thus is not *ad hoc*, high-level IRS attorneys authorized the creation and use of the falsified IMF and certifications, which Collections personnel “use” to justify levies, liens, etc. But, the scheme unfolds so that each participant in the sprawling enterprise has no idea of the unlawful nature of the acts which precede or follow theirs, thus providing “plausible deniability” for IRS staff.

### **Step 10: DoJ Conceals the Scheme, Uses Its Fruit, and Profits from It**

IRS prepares the misleading Certifications not only to be used by their Collections staff, but also to provide DoJ colorable documentation justifying the Government’s position, since DoJ represents the Service in all court cases. However, in every criminal case, DoJ attorneys are imputed by law to know that “exculpatory information” exists in the records of the Agency prosecuting the case.<sup>29</sup> That means the DoJ attorney, in “willful failure-to-file” cases, is imputed to know that IRS falsifies its records in the manner shown in **Steps 1-8** above, even if the attorney has no personal knowledge of the scheme. But, there’s more.

Incredibly, in the DoJ’s 2001 Criminal Tax Manual, **Section 40.03[9][c]**, the DoJ directly instructs United States Attorneys to avoid entering the (falsified) IMF records into evidence in court hearings. Instead, the DoJ instructor/author advises substituting IRS’ “self-authenticating” falsified certificates for IMF records:

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<sup>29</sup> See *United States v. Beers*, 189 F.3d 1297, 1304 (10th Cir.1999) “[i]nformation possessed by other branches of the government, including investigating officers (of investigative agencies), is typically imputed to the prosecutors of the case’ for *Brady* purposes; *United States v. Jennings*, 960 F.2d 1488, 1490 (9th Cir. 1992) ‘[t]his personal responsibility cannot be evaded by claiming lack of control over the files ... of other executive branch agencies’. Thus, a defendant’s due process right to a fair trial is violated when any Government actor, agent or agency withholds material evidence favorable to the defendant, irrespective of any personal knowledge of the prosecuting attorney.”

“Admissibility of IRS Computer Records. The introduction of the actual Individual Master File (IMF) transcript of account through a witness can open the witness to cross-examination by the defense about every code and piece of information contained in the transcript. **In order to avoid this problem, it may be wiser to simply offer IRS computer records at trial in the form of (paper) Certificates of Assessments and Payments, certified documents reflecting tax information kept on file at the IRS.**” [Emphasis added.]

<https://www.justice.gov/sites/default/files/tax/legacy/2006/02/28/40ctax.pdf>

Why is it “wiser”, and what intelligent U.S. Attorney could not understand the veiled advice/inference, that introduction of IMF digital records into a criminal prosecution might hinder a conviction? [As an aside, the cryptic phrase “may be wiser” is never used anywhere else in the Criminal Tax Manual.]

The attorney, or attorneys, who provided that instruction to U.S. Attorneys were aware that, by placing into evidence IRS’ falsified IMF records concerning a “non-filer”, with its telltale document locator evidence, with its mismatched dates contradicting the Certifications, with its concealed transactions, etc., IRS experts could be compelled under cross-examination to reveal the entire underlying IMF record falsification program, (whether initiated by Collections or Examinations) the lack of authority to perform substitute **income** tax returns for “non-filers,” the imaginary zero returns, the improper use of procedures (AIMS to modify IMF records when no election is made for IRS to perform a 1040A return), etc. All of which would prove to a jury that Congress never imposed the income tax on “non-filers”, since Congress can’t authorize the wholesale systematic falsification of government records.

Thus, although DoJ attorneys are imputed by law to know the existence of the exculpatory information concealed in the falsified IMF records of IRS concerning any person prosecuted in Court, the DoJ instructs their attorneys to avoid presenting that evidence to victims or fact finders, which results in a 97% conviction rate in “willful failure to file” cases (inevitably based on falsified underlying IMF records).

Falsifying government records is proscribed at 18 U.S.C. §1001, as is knowing “use” of falsified records. Concealing the commission of a felony (“misprision of felony”) is a violation of 18 U.S.C. §4. IRS and DoJ attorneys are participating in a “conspiracy against rights” to surreptitiously circumvent and rape the due process rights of “non-filers”, protected by the Fifth Amendment. Conspiracies to violate constitutional rights of others is violative of 18 U.S.C. §241. Obstruction of justice is criminalized at 18 U.S.C. §1503.

### **Afterward – Speculations/Inferences**

Since the Commissioner has had over 100 years of practice enforcing the income tax on “non-filers”, exactly why does the Commissioner commit and conceal crimes to justify seizing the property of “non-filers”? Obvious answer: He has no lawful power to determine deficiency



amounts absent a justiciable controversy raised voluntarily by an American. Said differently, the Commissioner has not been given, by Congress, LAWFUL power to compel “non-filers”, as conceded by the IRS Assistant Chief Counsel:

“Accordingly, the penalties of perjury statement has important significance in our tax system. The statement connects the taxpayer’s *attestation of tax liability* (by the signing of the statement) with the Service’s statutory ability to *summarily assess* the tax. (Emphasis added) Assistant Chief Counsel, *Memorandum 3* (July 29, 1998) <http://www.irs.gov/pub/irs-wd/1998-053.pdf>. [See **Doc. L**, Pg.3, 2nd Full ¶, attached hereto, as a courtesy copy.]

That is a GIGANTIC concession. Unless a person attests under oath as to a duty to file, whether the amount claimed is zero or larger, the Service’s authority to summarily assess the income tax cannot be activated. It lies inert, paralyzed. But, when a person provides the Government sworn 1040 evidence, IRS is fully authorized to act on it, to dispute any amount claimed, to summarily assess, to seize and/or to prosecute.

The Commissioner can’t seize property without a “deficiency”, and publicly admits he has no delegated power to execute substitute income tax returns under 26 U.S.C. §6020(b). That means, even if he supposes a tax liability/deficiency exists, he has no unilateral power to create a controversy he can use to compel collection.

IRS software is stringently written to follow the law. So, IRS manipulates adjunct computers (AIMS or SMSP) to falsify IMF records reflecting that a taxpayer has attested to his liability, (that a 1040A return supposedly exists), absent which IRS cannot LAWFULLY create the appearance of actionable deficiencies, and commence collection.

The restrictions built into his IMF software perfectly reflect the voluntary nature of the return; so does the Commissioner’s “work-around”. He “games” his IMF software to make his almost indecipherable, encoded IMF records falsely reflect that a return was received on a claimed date, when no return exists at all, which then allows him to enter into an IMF a determination of a collectable deficiency.

As noted above, the complex, layered scheme’s existence infers Congress ACTUALLY imposed no duty on “non-filers” to file returns, that the income tax system is truly based on the “gem of voluntary compliance”,<sup>30</sup> that, to seize the property of those who don’t volunteer,

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<sup>30</sup> "We don't want to lose voluntary compliance... We don't want to lose this gem of voluntary compliance." Fred Goldberg, IRS Commissioner, *Money* magazine, April, 1990. Goldberg confirmed the 1953 testimony of Dwight E. Avis, head of the Alcohol and Tobacco Tax Division of the Bureau of the Internal Revenue before the House Ways and Means Committee of the Eighty-Third Congress: "Let me point this out now: Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent enforced tax. Now, the situation is as different as night and day."

requires commission of concealed crimes to conjure the appearance of “substitute income tax returns” after which IRS fabricates pretended “deficiency amounts” justifying seizures, that without such falsified records no seizure or criminal prosecution could be justified, and that Government attorneys and software engineers have been fabricating for decades the appearance of pretended duties and viciously enforcing the “income tax”, while raping/destroying helpless fellow Americans.

The guts of the American income tax is a white-collar criminal enterprise, the largest record falsification program/entrapment scheme the world has ever seen. And it’s now being operated “in the clear”, with full knowledge of every attorney involved.

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## **LET OUR PEOPLE GO.**

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### **Documents Provided**

Doc. A - Section 6020(b) Certification re Mr. Ellis and 2007

Doc. B - AMDISA print re: Ellis and 2007

Doc. D - Revenue Officers’ Handbook, Lesson 23

Doc. F - IMF MCC TRANSCRIPT COMPLETE, dated 06-22-2011, Re: Ellis, 2007

Doc. G - TXMOD A Re: Ellis and 2007

Doc. H - IMF MCC TRANSCRIPT SPECIFIC re Ellis and 2007,  
dated 05-28-2010

Doc. I - Form 4549 Income Tax Examination Changes, re Ellis and 2007

Doc. J - Certificate of Assessments, re Ellis and 2007

Doc. K - FOIA Disclosure by IRS, re Robert McNeil

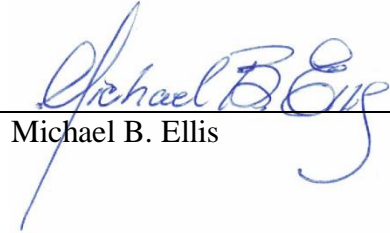
Doc. L - IRS “memorandum” dated 29 July 1998


Other documentation available upon request



**Verification/Declaration**

Comes now Michael B. Ellis and Robert A. McNeil, declaring under penalty of perjury, pursuant to 28 USC §1746, that: "The facts stated in the foregoing '**The Ten Step Program Used by IRS/DoJ to Enforce the Income Tax on 'Non-Filers'**'" are absolutely true and correct to the very best of my knowledge and belief, So HELP ME GOD."

  
\_\_\_\_\_  
Michael B. Ellis

  
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Robert A. McNeil